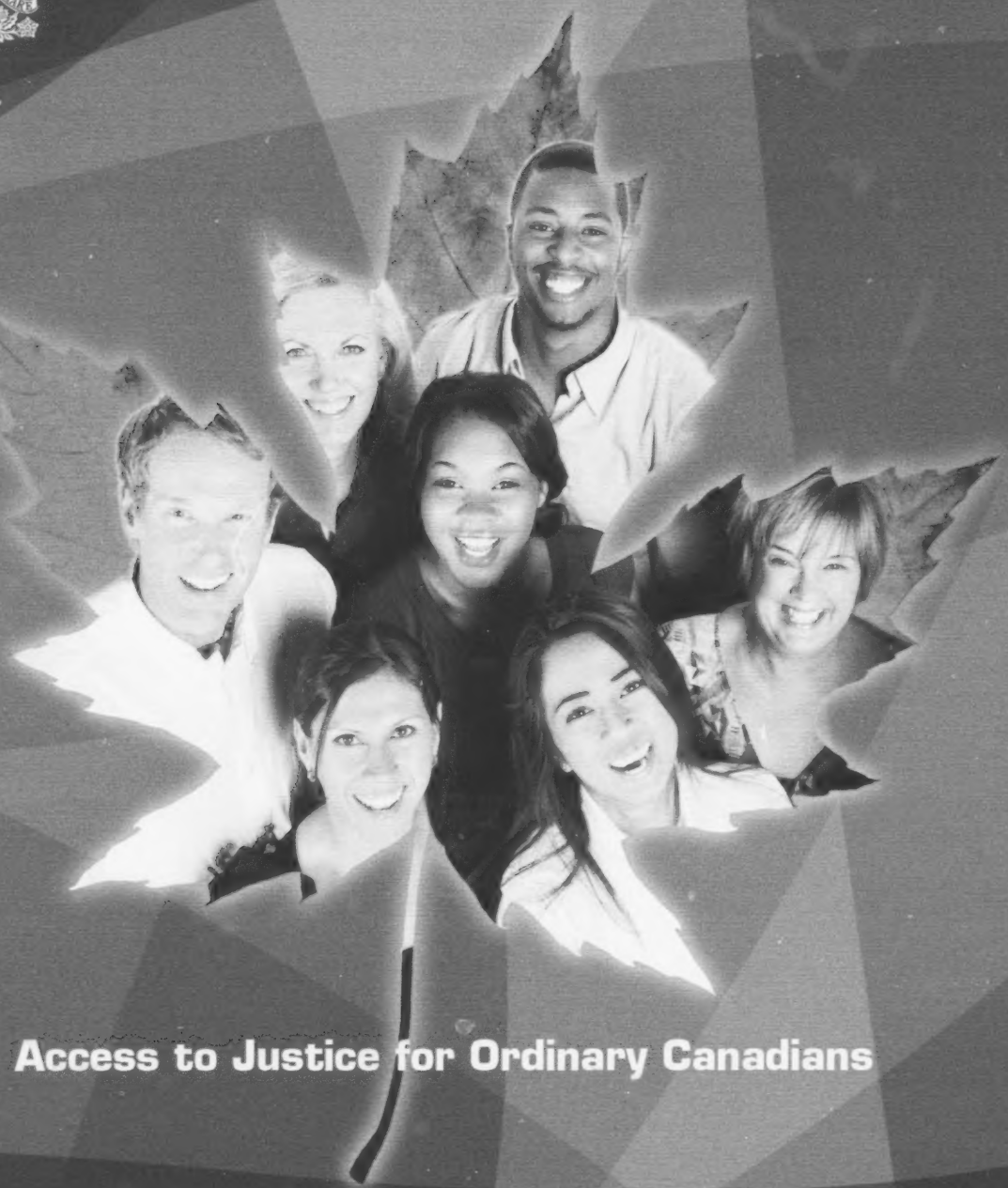
CANADIAN HUMAN RIGHTS TRIBUNAL

Annual Report 2010



Access to Justice for Ordinary Canadians

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HR61-2010 - 978-1-100-52966-0
HR61-2010E-PDF; 978-1-100-17875-2

Canadian Human Rights Tribunal/Annual Report 2010

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CHAIRPERSON'S MESSAGE

It is my privilege to provide you with information and perspective about the vision that we at the Canadian Human Rights Tribunal have embarked on, as well as to report on the execution of the adjudicative mandate for the year 2010.

On November 2, 2009 when my appointment as Chairperson of the Canadian Human Rights Tribunal took effect, I began exploring ways to make the Tribunal more accessible to all Canadians. To enhance accessibility and efficiency, I questioned how ordinary Canadians could have a hearing faster while still maintaining fairness. What tools, methods and processes could enhance the current system at the Tribunal? And, how could I build on the success of my predecessors?

These thoughts, arising out of my work as a human rights lawyer for more than 20 years, inspired my vision for the Tribunal: "Providing Access to Justice for Ordinary Canadians". In shaping this vision, I have worked closely with fellow Members of the Tribunal (during training sessions and input meetings), practitioners in the field of human rights, lawyers and judges, to seek their input, ideas and support.

What does this vision mean in concrete terms? A large part of my vision involves offering evaluative mediation alongside interest-based mediation throughout the continuum of the adjudicative process: (i) from the date of the referral and prior to the filing of particulars (pre-disclosure evaluative mediation); (ii) after particulars are filed (post-disclosure evaluative mediation); and, (iii) during a hearing.

The principal barriers to access to justice for human rights complainants are legal costs and delays. My aspiration is to provide ordinary Canadians with a venue to be heard without having to incur significant legal costs. In this regard, the Tribunal provides a mediation conference in a safe and confidential setting wherein parties may discuss the strength of their case with a Tribunal Member "off the record". The goal is to help parties to better understand their case, which often leads to informed settlement. Settlement is restorative. Settlement brings emotional closure and allows parties to move on. Settlement also spares the parties unnecessary financial and emotional costs arising from hearings. When parties are unable to settle complaints, the Tribunal's goal is to provide quick and fair hearings. Decisions are important in providing precedential value for the parties, the public and for resolution of future complaints.

The issue of legal costs became particularly apparent in October 2009. The Federal Court of Appeal ruled that the Tribunal could not award compensation for legal expenses incurred by a successful complainant *(Canada (Attorney General) v. Mowat,* 2009 FCA 309). The complainant, who was found to have been sexually harassed, incurred significant legal costs but received a discrimination award of only $4,000.00.

Parties appearing without legal representation are on the rise. Given the *Mowat* ruling, which creates a strong disincentive for complainants to retain legal counsel, we believe this tendency will increase. Prior to *Mowat*, a complainant could have recovered her legal costs. Presently, a successful complainant may not be willing to take the risk of proceeding to a hearing, with the help of a lawyer, without being assured that she can recover those legal costs. This situation could allow discrimination claims to be abandoned without judicial scrutiny.

The enhanced complaints resolution process elaborated on in this report envisages fundamental changes in the Tribunal's process, such as intensive pre-hearing case management and enhanced efforts in mediation. To advance this approach, the Tribunal has changed the complaints process to narrow the issues of litigation and to abbreviate the duration of hearings by focusing on the facts in dispute. A preliminary assessment of the changes indicates positive results. For example, of the 30

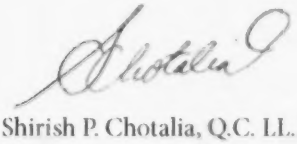
cases utilizing evaluative mediation in 2010, 80 % or 24 cases were settled using this cost-effective approach (2 cases are still in process). We estimate that the settlement of these cases through evaluative mediation saved the Tribunal and the parties about 41 weeks of hearings, which translates into cost savings of approximately $390,000.00 in total. Mindful of the need to avoid unnecessary delay in processing cases, we worked hard to ensure that every case was actively managed.

Since late 2009, parties to a complaint have been actively encouraged to identify and acknowledge all non-contentious issues, and to accept each others' affidavits in lieu of expert testimony. This measure saves both legal costs for the parties and hearing costs for Canadian taxpayers. Pre-hearing conferences, wherein the Tribunal works with parties towards agreements about key facts and distilling the issues, have shortened hearing times by more than fifty percent in some cases. Examples of two decisions expressly referring to my vision of access to justice are: (i) *Breast v. White Lake First Nation #128*, 2010 CHRT 10 (at paras. 24 and 25); and, (ii) *Roopnarine v. Bank of Montreal*, 2010 CHRT 5 (at para. 36). Further details of these cases can be found in the Jurisprudence section of this report.

In 2008, Parliament repealed section 67 of the *Canadian Human Rights Act*. This positive measure allows First Nations and their members to file complaints of discrimination arising out of the *Indian Act* with the Canadian Human Rights Commission. First Nations and First Nation members may now seek the full protection and benefit of the *Act*. As a result of this amendment, a significant increase in the number of cases referred to the Tribunal by the Commission is anticipated, as noted in the 2009 annual report of the Canadian Human Rights Commission. This significant new type of complaint is anticipated to raise complex and novel issues requiring a reconciliation of anti-discrimination law with First Nations legal traditions and customary laws. The Tribunal is making plans to address this potential increase in the number and complexity of cases it will be expected to handle. The Tribunal is looking forward to working with First Nations communities to learn how it can facilitate access to justice for them in a cost-effective, innovative, and culturally sensitive manner.

In looking forward to 2011, I will continue to work closely with stakeholders as the Tribunal moves forward with its efforts to efficiently and fairly administer operations and improve its case management processes and practices.

Finally, I have been assisted in this important venture by a skilled cadre of staff and Tribunal Members, actively engaged in change management while performing their duties with care, respect and professionalism.



Shirish P. Chotalia, Q.C. LL.M.
Chairperson and Chief Executive Officer

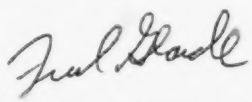
EXECUTIVE DIRECTOR'S MESSAGE

It is my pleasure to provide you with information and perspective about key operational and administrative activities and events that occurred in 2010.

Corporate Overview - In 2010, the Tribunal implemented several changes in order to move to a new and innovative approach for expediting the settlement of complaints, making case management more efficient and, at the same time, ensuring timely access to justice for ordinary Canadians. The Tribunal has implemented changes at both the administrative and operational levels. In this regard, change management presents challenges but also brings rewards. The Tribunal has addressed these challenges head on in order to benefit stakeholders, including ordinary Canadians seeking justice, taxpayers and Tribunal staff.

Workplace and Administration - Creating a healthy workplace is a priority for management. A workplace assessment was conducted and action has been completed on most of the recommendations. At the administrative level, we were engaged in streamlining services and creating efficiencies within a micro agency. Policies and procedures to define roles and responsibilities and appropriate corporate decision making vehicles were implemented. Work commenced on the Corporate Risk Profile in order to create a risk-based management structure. We undertook an assessment of internal controls to identify opportunities for improvement. In addition, the Tribunal needed to deal with significant long-standing procurement litigation against the Tribunal that utilized a significant component of the Tribunal's financial and human resources, resources that would have been better used supporting the Chairperson's vision of access to justice for ordinary Canadians. The Tribunal leveraged relationships with other senior government officials, and engaged human resource experts to advise us on the full range of human resource activities required to facilitate change management. Also, the Tribunal took pro-active measures to explore more effective ways to risk manage the IT function.

Registry Operations - The main activities of the Registry include: (i) control and preparation of the case management file; and, (ii) arranging and supporting the work of full and part-time Members conducting mediation activities and holding hearings to resolve complaints. During this period of change, the Registry Operations managed to maintain its high level of service. It was involved in active case management measures, such as implementing an improved process for expediting resolution of complaints by focusing on the newly introduced method of evaluative mediation, as well as the use of process-based mediation to narrow issues, establish facts and clarify the law.



F. Gloade, Executive Director

VISION - Access to justice for ordinary Canadians

The Federal Court of Appeal has expressed its view that the Canadian Human Rights Tribunal (Tribunal) has, in the past, mismanaged the hearing process by allowing a certain case to consume exceptional amounts of time and resources *i.e.* a pay equity hearing that proceeded for 11 years (*Canada Post Corp. v. Public Service Alliance of Canada*, 2010 FCA 56). In this particular case, the Applications Judge had noted that "a legal hearing without discipline and timelines both delays and denies justice."

Clearly then, for a hearing to provide access to justice, the proceeding must be focused and time must be managed effectively. However, at a certain point, the principles of natural justice will impose limits on the search for efficiency in the conduct of a quasi-judicial hearing. Can enhanced access to justice be delivered outside of the formal hearing process? Answers to this question may be found by examining the experience of the Alberta Courts with judicial dispute resolution.

The Courts in Alberta adopted a formal Judicial Dispute Resolution (JDR) program in 1996 based on the previous alternative dispute resolution methods that had been offered since the late 1980s. JDR is defined as a voluntary and consensual process whereby parties to a dispute, following the filing of an action in the Court (and, most typically, close to trial), seek the assistance of a JDR justice to help settle the dispute before trial, by means of a mini-trial, facilitative or evaluative mediation or binding JDR. [1]

Alberta's use of JDR has benefitted the justice system directly and indirectly by reducing court resources and wait-times, and by generating cost savings for both direct participants of JDR and for the entire justice system. Associate Chief Justice Rooke has recognized and indicated that JDR is not a mechanism limited only to the courts, but is also open and recommended for Administrative Tribunals and other adjudicating Boards and Agencies.

Associate Chief Justice Rooke's data showed that 89% of cases were resolved either at the JDR or flowing from the JDR, using one of the various methods of mediation, including evaluative mediation.[2]

Public Service Renewal

At the Tribunal, we are working hard to embrace necessary changes to improve how Canadians are being served by this institution of the federal government. The Clerk of the Privy Council has been prominent in providing leadership in this area, and the Tribunal is proud to be able to cite several initiatives throughout this report that support the Clerk's vision.

Clerk of the Privy Council and Secretary to the Cabinet

17th Annual Report to the Prime Minister – March 2010

The way ahead will involve empowering public servants at all levels to find new, more cost-effective ways to deliver better services to Canadians and provide higher-quality advice to the Government. All public servants have a role to play in this effort. Our future – our vocation as public servants – is in our hands.

Today's workplaces should also encourage and facilitate innovation and opportunities for incremental as well as larger-scale improvements in our effectiveness and efficiency. Our essential mission of public service is still hampered by too much time and money devoted to internal administration. In speaking with public servants, it is clear to me that there is a desire to do things differently, to do things better. We need to find ways to harness and support this enthusiasm – to ultimately improve our ability to deliver results for Canadians.

1 Jo– Daniel Rooke, "*The Multi-Door Courthouse Is Open in Alberta: Judicial Dispute Resolution Is Institutionalized in the Court of Queen's Bench*", Master of Laws Thesis (Spring 2010)

2 Citation: Jo– Daniel Rooke, "*Improving Excellence: Evaluation Report of the Judicial Dispute Resolution Program in the Court of Queen's Bench of Alberta*", (June 1, 2009), Appendix 4, Section F1.

WHAT WE DO

The Tribunal is responsible for applying the principles of the *Canadian Human Rights Act* (the *Act*), which is designed to protect individuals from discrimination. The *Act* states that all Canadians have the right to equality, equal opportunity, fair treatment, and an environment free of discrimination. The *Act* prohibits discrimination on the basis of race, national or et—ic origin, colour, religion, age, sex (including pregnancy), marital status, family status, sexual orientation, disability (including drug dependency) or pardoned criminal conviction. Maintaining wage differences between male and female workers performing work of equal value in the same establishment is also prohibited by the *Act*.

Tribunal's Annual Performance Reports
http://chrt-tcdp.gc.ca/NS/reports-rapports/perf-rend-eng.asp

The *Act* applies only to federally regulated employers and service providers, such as federal government departments and agencies, federal Crown corporations, chartered banks, airlines, shipping and inter-provincial trucking companies, and telecommunications and broadcasting organizations. The *Act* also prohibits telecommunications and Internet messages that are likely to expose people to hatred or contempt because of their race, et—ic origin, sexual orientation or other prohibited grounds of discrimination.

Tribunal's Annual Reports on Plans and Priorities:
http://chrt-tcdp.gc.ca/NS/reports-rapports/plans-eng.asp

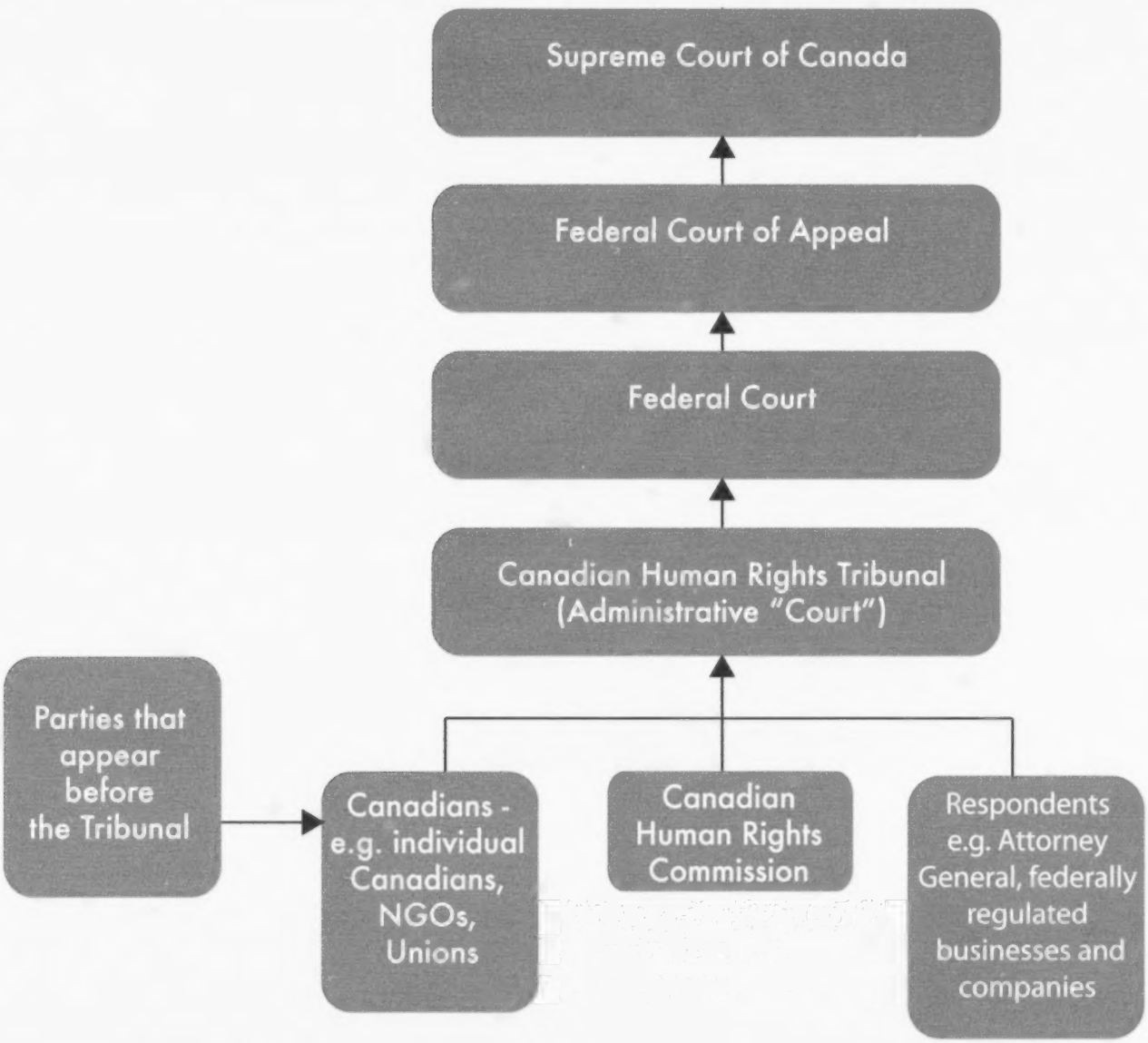
The Tribunal, a quasi-judicial body, hears complaints of discrimination referred to it by the Canadian Human Rights Commission, and Tribunal Members (full and part-time) adjudicate on whether the given activity is a discriminatory practice that violates the *Act*. The Tribunal also has the authority to hear complaints under the *Employment Equity Act*, which applies to federal government employees and to federally regulated private sector employers with more than 100 employees.

The Tribunal is similar to a court of law; but it is less formal and hears only cases related to discrimination. Like a court, the Tribunal is strictly impartial. Unlike a court, the Tribunal provides an informal setting where the parties can present their cases without legal representation and without adhering to strict rules of evidence. Parties call witnesses or testify on their own behalf, and witnesses are subject to cross-examination. Documentary evidence is permitted.

Final arguments are made at the end of the hearing. The Tribunal consists of human rights adjudicators and mediators with a great wealth of experience in these roles. If the complainant and respondent are willing, a Tribunal Member may be assigned to help them achieve a mediated settlement. If mediation is refused or fails to produce a settlement, a different Tribunal Member will hear the complaint and render a written decision. The parties may elect to settle the complaint at any time before the Tribunal renders its decision. Tribunal decisions are subject to review by the Federal Court at the request of any of the parties.

Administrative responsibility for the Tribunal rests with a Registry that plans and arranges hearings, and acts as a liaison between the parties and Tribunal Members. The Registry is also responsible for managing the operating resources allocated to the Tribunal by Parliament. Details of Registry activities, including recent developments in comptrollership, management accountability and public administration, can be found in the Tribunal's performance reports.

HUMAN RIGHTS COMPLAINTS RESOLUTION FRAMEWORK


Supreme Court of Canada
Federal Court of Appeal
Federal Court
Canadian Human Rights Tribunal (Administrative "Court")
Parties that appear before the Tribunal
Canadians - e.g. individual Canadians, NGOs, Unions
Canadian Human Rights Commission
Respondents e.g. Attorney General, federally regulated businesses and companies

Mediation

A cornerstone of the Tribunal's complaint resolution process is its mediation program. This program has now been enhanced to include an evaluative / case assessment component.

"...On balance, my experience has been that the benefits of mediation outweigh the detriments, and that mediation can be most useful in mitigating the depth and severity of the problem of access to justice...

Mediation is not a panacea for the ills of the civil justice system, but it is a step along the path. Implemented wisely, evaluated realistically, and measured against pragmatic expectations, it holds the promise of immense dividends for our citizens and for our civil justice system."

Honourable Warren K. Winkler, Chief Justice of Ontario:
Paper entitled "Access to Justice, Mediation: Panacea or Pariah?"

The Tribunal offers mediation at various steps of the process. The first is an early mediation that takes place at the beginning of the process. During an early mediation, the Tribunal Member may evaluate the relative strengths and weaknesses of the positions advanced by the parties and may provide the parties with a non-binding opinion as to the probable outcome of the inquiry. This case assessment is added to the existing interest-based model of evaluation.

The Tribunal continues to respect the underlying needs of the parties by encouraging a broader range of solutions or resolutions to address their underlying interests. The Member conducting the mediation is respectful of the unique requirements of each case. The Member seeks to provide the parties with an opportunity to be "heard" (i.e. adjudicative closure without a full and costly adjudication). Then, as appropriate, either in a full session, or in private caucus, the Member offers evaluative instruction aimed at giving the parties a realistic assessment of the possible outcomes of the case. This is done within the confines of a confidential and supportive environment for the parties, including unrepresented complainants.

"Evaluative mediation should be used as early as possible to achieve settlement."

Dr. Ian Holloway QC, Professor and Dean of Law, The University of Western Ontario.

The second juncture wherein mediation is offered is after the parties have filed their particulars and disclosed their case. It is usually offered approximately two weeks prior to the hearing. During a post-disclosure mediation, the Tribunal Member will proceed as noted in the previous paragraphs. However, at this interval, the parties are ready to commence a full hearing and are generally more informed about the relative strengths and weaknesses of their positions.

If the mediation does not result in settlement, with the consent of the parties, the Member may help the parties to reduce the issues to be litigated in the hearing. In addition, the parties can elect to utilize mediation at any time before, and even during, the hearing.

"When a Human Rights Tribunal provides parties with case assessment in a mediation "hearing", it helps them to better understand and to identify what an appropriate way to settle it might be. This process is most effective when all issues are identified and, as early as possible, but bearing in mind, a case-by- case approach. Essentially, the parties are receiving legal advice about the strengths and weaknesses of their case. When this leads to settlement, it is an informed settlement. The parties participated in the decision-making and, therefore, are empowered and satisfied with the decision. This is access to justice. This philosophy already adopted by Courts, which is oriented towards conflict resolution, does not undermine the importance of Courts and Tribunals' decisions that set boundaries and elaborate principles of law."

Michèle Rivet - *First President Quebec Human Rights Tribunal.*

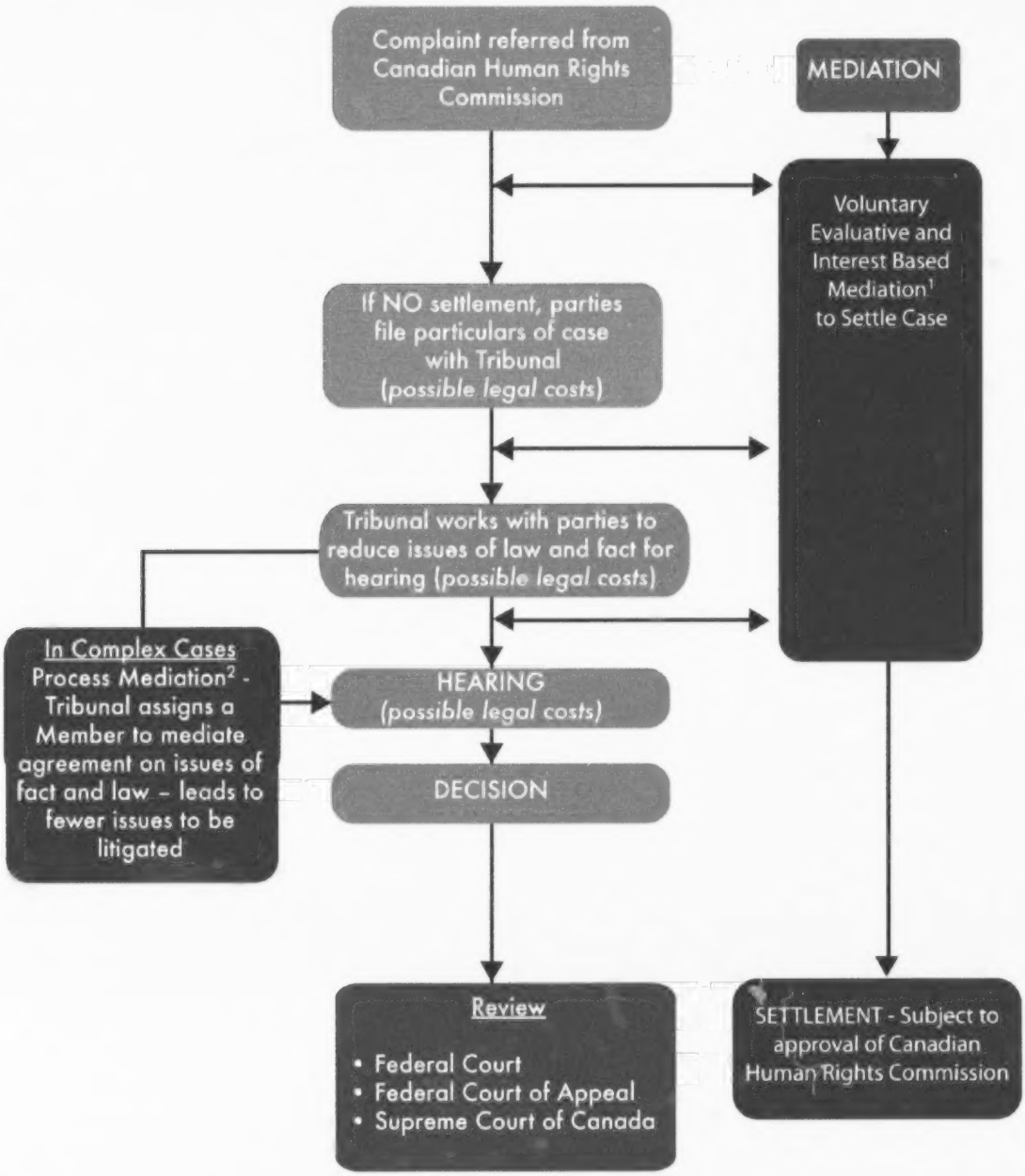
In 2010, the Tribunal conducted 30 mediation sessions, of which 2 were still in active mediation as at December 31, 2010. Of these mediation sessions, 16 involved complaints against governments and 12 involved complaints against private companies. In 2010, the complaints mediated were on the following grounds: race (6); national or et—ic origin (5); colour (5); religion (2); age (2); sex (8); marital status (1); family status (6); disability (12); and conviction for which a pardon has been granted (1).

Of these 30 cases utilizing evaluative mediation, 80% or 24 cases were settled. It is estimated that the settlement of these cases through the Tribunal's unique form of mediation saved the Tribunal and the parties an estimated 41 weeks of hearings. The Tribunal estimates that the elimination of 41 weeks of hearings results in savings to the Tribunal of approximately $390,000.00. The entire justice system has realized significant efficiencies. More importantly, the parties have realized substantial savings, and have experienced restorative healing and emotional benefits that cannot be quantified in dollar terms.

"The evaluative mediation process was integral in assisting the parties in reaching a mediated settlement in such a complicated matter. The parties benefit immensely from hearing an evaluative view of their case before they reach the point-of-no-return in a Tribunal hearing. The process allowed an excellent mix of reviewing the strengths and weaknesses of the parties' positions while maintaining a resolution-driven focus. I would highly recommend the process for my clients going forward."

Nicole Chrolavicius, *Barrister & Solicitor – Bakerlaw.ca*

ENHANCED COMPLAINT RESOLUTION PROCESS


Complaint referred from Canadian Human Rights Commission
MEDIATION
Voluntary Evaluative and Interest Based Mediation[1] to Settle Case
If NO settlement, parties file particulars of case with Tribunal (possible legal costs)
Tribunal works with parties to reduce issues of law and fact for hearing (possible legal costs)
In Complex Cases Process Mediation[2] - Tribunal assigns a Member to mediate agreement on issues of fact and law – leads to fewer issues to be litigated
HEARING (possible legal costs)
DECISION
Review
• Federal Court
• Federal Court of Appeal
• Supreme Court of Canada
SETTLEMENT - Subject to approval of Canadian Human Rights Commission

(1) *Evaluative Mediation* - The Tribunal member conducting the mediation evaluates the relative strengths and weaknesses of the positions advanced by the parties and may provide the parties with a non-binding opinion as to the probable outcome of the inquiry.

(2) *Process Mediation* - The Tribunal member conducting the mediation assists the parties to narrow issues, facts and law to clarify matters and support the parties as they focus on resolving the complaint.

TRIBUNAL RULES AND PROCEDURES

The Tribunal has developed the following rules, procedures and guides to assist parties in their dealings with the Tribunal including developing and presenting their case before the Tribunal:

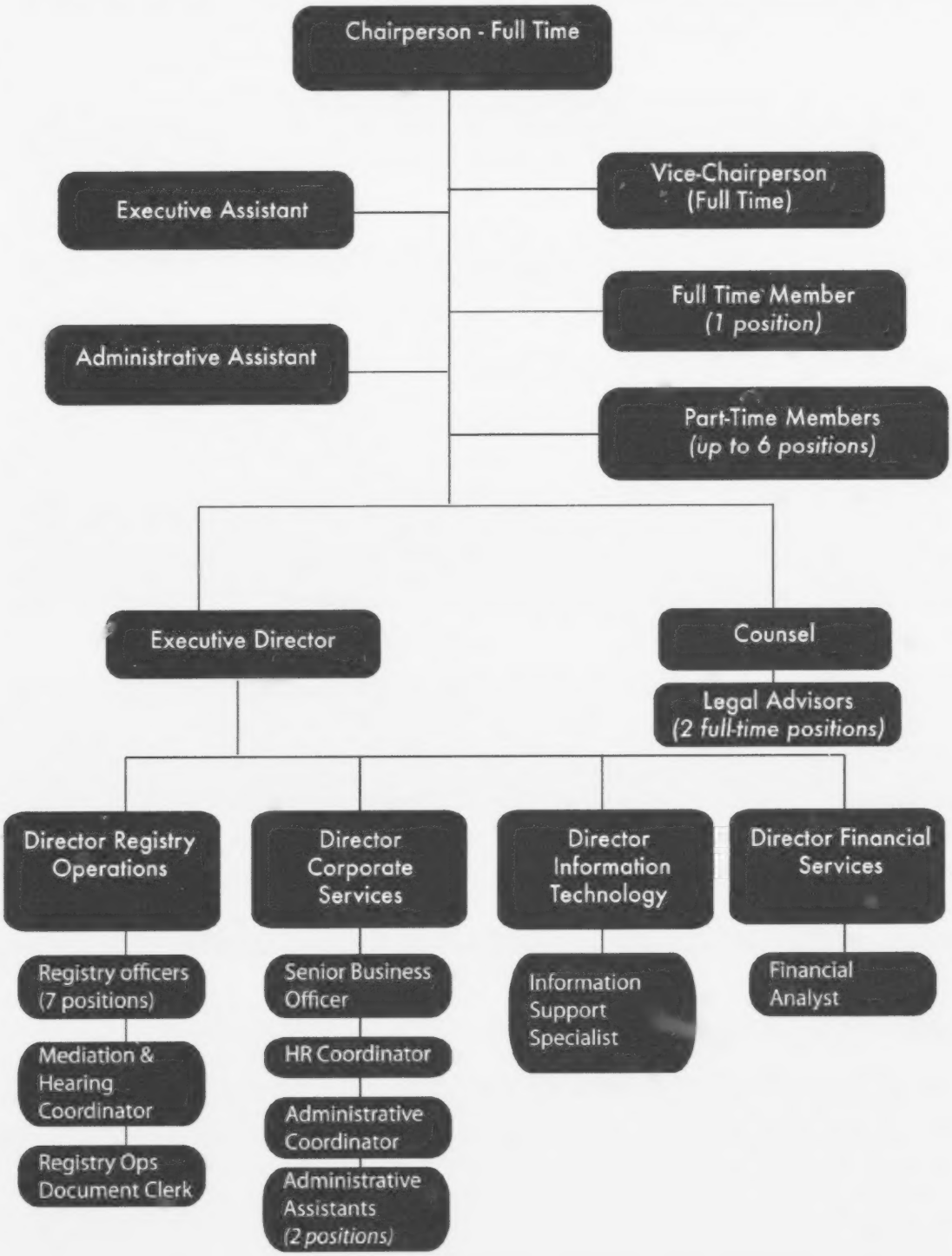
- *Canadian Human Rights Tribunal Practice Note No. 1* - Timeliness of Hearings and Decisions
- *Canadian Human Rights Tribunal Practice Note No. 2* - Representation of Parties by Non-Lawyers
- *Canadian Human Rights Tribunal Practice Note No. 3* - Case Management
- *Tribunal Glossary 2010*
- *Canadian Human Rights Tribunal Rules of Procedure* - These Rules govern all proceedings before the Tribunal under the Canadian Human Rights Act
- *Evaluative Mediation Procedures*
- *Guide to the Operations of the Employment Equity Review Tribunal (EERT)* - The Guide provides general information on the structure, role and functions of the EERT

Further details of concerning the Tribunal's Rules, Procedures and Guides can be found at: chrt-tcdp.gc.ca/NS/about-apropos/trp-rpt-eng.asp

"My three year term as a part time member of the Tribunal ended in December 2010 just a few months before my 80th birthday. I had not considered requesting a further term until Chairperson Chotalia engaged me in a discussion over her objectives for the Tribunal: that ordinary Canadians be given better access to justice, particularly by quickening the process to inquiries and making mediations more effective by adding evaluation to the mediator's role. The Chairperson's determination to succeed persuaded me to request another term of three years which I have been granted. I believe that what Chairperson Chotalia is doing will ensure meaningful access to justice for ordinary Canadians and I look forward to assisting her in every way I can."

Wallace Craig - *Member of the Canadian Human Rights Tribunal*

GOVERNANCE AND MANAGEMENT



JURISPRUDENCE

The bulk of the Tribunal's work involves conducting mediations and hearings, issuing rulings and rendering decisions. The Tribunal heard cases on a broad range of issues. The full text of all decisions is available on the Tribunal's website.

Decisions and Rulings

Decisions

For the purposes of this report, a "decision" is defined as a set of adjudicative reasons issued by a Member or Panel of the CHRT which actually decide the question of whether a discriminatory practice occurred in a given case.

This would, therefore, exclude reasons where:

- The only real issue in contention before the Tribunal is what type of remedial order is appropriate
- The complaint is dismissed for want of prosecution by the complainant
- The complaint is dismissed for lack of jurisdiction, abuse of process, delay, irreparable breach of fairness, etc.
- The issue before the Tribunal is a motion for some type of procedural or evidentiary order

(It should be noted that reasons issued in respect of matters in the aforementioned list are classified as rulings, which are dealt with in the following section about rulings.)

Table 1

DECISIONS RENDERED BY THE CHRT IN 2010		
#	Party Name(s)	Neutral Citation
1	Douglas, Wayne v. SLH Transport Inc.	2010 CHRT 1
2	Malec et al. v. Council of the Montagnais of Natashquan	2010 CHRT 2
3	Gravel, Shelley Ann v. Public Service Commission of Canada	2010 CHRT 3
4	Hughes, James Peter v. Election Canada	2010 CHRT 4
5	Roopnarine, Taramatie v. Bank of Montreal	2010 CHRT 5
6	Thambiah, Ramanan v. Maritime Employers Association	2010 CHRT 8
7	Public Service Commission of Canada and Murphy, C. v. CRA	2010 CHRT 9
8	Breast, Charles A. v. Whitefish Lake First Nation	2010 CHRT 10
9	Harkin v. Attorney General	2010 CHRT 11
10	Levan Turner v. Canada Border Services Agency	2010 CHRT 15
11	Shmuir, William G.M. v. Carnival Cruise Lines	2010 CHRT 18
12	Fiona Ann Jo—stone v. Canada Border Services Agency	2010 CHRT 20
13	Khalifa, Melissa v. Indian Oil and Gas Canada	2010 CHRT 21
14	Whyte, Kasha v. Canadian National Railway	2010 CHRT 22
15	Seeley, Denise v. Canadian National Railway	2010 CHRT 23
16	Richards, Cindy v. Canadian National Railway	2010 CHRT 24
17	Bélanger v. Correctional Service of Canada and the Union of Canadian Correctional Officers	2010 CHRT 20

Rulings

As previously discussed, all sets of adjudicative reasons issued by the Tribunal which do not qualify as decisions (i.e. they do not actually decide whether a discriminatory practice occurred) are classified as rulings. This would include reasons for an order which actually dismissed a complaint or otherwise brought the adjudicative mandate of the Tribunal to an end vis-à-vis the case in question.

Table 2

RULINGS RENDERED BY THE CHRT IN 2010		
#	Party Name(s)	Neutral Citation
1	Whyte, Kasha v. Canadian National Railway	2010 CHRT 6
2	First Nations Child and Family Caring Society of Canada, Assembly of First Nations v. Indian and Northern Affairs Canada	2010 CHRT 7
3	beachesboy@aol.com v. HBoss	2010 CHRT 12
4	Canadian Jewish Congress v. Henry Makow	2010 CHRT 13
5	League for Human Rights of B'nai Brith, Abrams, Harry v. Topham, Arthur and Radicalpress.com	2010 CHRT 14
6	First Nations Child and Family Caring Society of Canada, Assembly of First Nations v. Indian and Northern Affairs Canada	2010 CHRT 16
7	Ballantyne, Robert v. Canadian Union of Postal Workers	2010 CHRT 17
8	Walden et al. v. Social Development Canada, Treasury Board of Canada, and Public Service Human Resources Management Agency of Canada	2010 CHRT 19
9	Grant, Heather Lynn v. Manitoba Telecom Services Inc.	2010 CHRT 26
10	Douglas, Wayne v. SLH Transport Inc.	2010 CHRT 25
11	Vilven, G. v. Air Canada; and Kelly R. v. Air Canada and Air Canada Pilots Association	2010 CHRT 27
12	Sc—eider, Melody Katrina, Matson, Jeremy Eugene, Matson, Mardy Eugene v. Indian and Northern Affairs Canada	2010 CHRT 28
13	Grant, Heather Lynn v. Manitoba Telecom Services Inc.	2010 CHRT 29
14	Tran, Cam-Linh (Holly) v. Canada Revenue Agency	2010 CHRT 31
15	Wheatcroft, Jonathon v. Canadian International Development Agency	2010 CHRT 32
16	Tahmourpour v. Royal Canadian Mounted Police	2010 CHRT 34
17	Collins, Peter M. v. Correctional Service of Canada	2010 CHRT 33

The following four case summaries provide information about some Tribunal decisions that were particularly significant in their impact.

Hughes v. Elections Canada 2010 CHRT 4

The complainant, who has post-polio syndrome and uses a wheelchair or walker, claimed that he was denied an accessible polling location and was adversely differentiated against because of his disability when he went to vote at a church in downtown Toronto on two occasions within a seven-month time span. He alleged that the respondent had discriminated against him in the provision of services.

At the hearing, the respondent admitted that it had adversely differentiated against the complainant in the provision of a service. The Tribunal found that additional facts in evidence gave rise to a finding of discrimination on the part of the respondent, including the following: the respondent failed to record and properly investigate the verbal and written complaints precipitated by the complainant's first polling day experience, and the respondent's written response to the accessibility issues raised by the complainant was tardy, inaccurate and dismissive in tone.

Having found the complaint to be substantiated, the Tribunal turned to the question of remedy. It awarded the complainant compensation for pain and suffering experienced as a result of the discrimination. The Tribunal then accepted the offer of the Canadian Human Rights Commission to monitor the implementation of the terms of the Tribunal's order. Some of the order's stipulations included requirements for Elections Canada to:

- formulate a consultation plan to involve persons with disabilities and disability groups in matters touched on by the Tribunal's order (e.g., the choice of polling locations, standards of accessibility, signage and training of personnel);
- stop situating polling stations in locations that do not provide barrier-free access;
- review its Accessible Facilities Guide, Accessibility Checklist and the accessibility sections of its manuals for various categories of electoral officers and workers;
- provide sufficient and appropriate signage at elections, so that voters with disabilities can easily find the best route to all accessible polling station entrances;

- review, revise and update its training materials concerning accessibility issues;
- implement a procedure for receiving, recording and processing verbal and written complaints about lack of accessibility at polling locations, and report publicly to Parliament about the number of complaints received for three general election cycles; and
- report to the Tribunal in at least three-month intervals about its progress in implementing the order.

Results for Canadians

In the words of the Tribunal in this case, "voting is one of the most sacred rights of citizenship and that includes the right to do so in an accessible context." The quote aptly illustrates the significance of this decision. In *Hughes*, the Tribunal also elaborated on the body of principles governing discrimination in the provision of services, an area of the *Act* that had not been as fully explored as employment-related discrimination. In particular, in issuing its multi-faceted remedial order, the Tribunal had an opportunity to concretely articulate general principles about the content of "future practices orders."

Roopnarine v. Bank of Montreal 2010 CHRT 5

The complainant alleged that the respondent terminated her employment because of her disability, and that it used inaccurate performance appraisals and evaluations as a pretext to dismiss her when the real reason for her dismissal was the respondent's unwillingness to accommodate her wrist injury.

The Tribunal noted that at the time the complainant's employment was terminated she was suffering from a wrist injury, was on an accommodated leave for that injury, was receiving physiotherapy and was awaiting a specialist's report to have the accommodation period extended. She was experiencing wrist pain consistent with a repetitive strain injury.

On the evidence, however, the Tribunal found that the complainant's wrist injury was not a factor in the respondent's decision to terminate her employment.

The Tribunal also did not find that the complainant had been subjected to adverse differential treatment based on disability prior to her dismissal; the complainant's manager made every effort to help her improve her skills to facilitate future opportunities, but the complainant refused to accept criticism and direction, and in spite of training, failed to improve.

The respondent's medical accommodation process in regard to the wrist injury was consistent with its duty to accommodate the complainant and was carried out promptly and in good faith. The complainant herself had an obligation to provide relevant medical information necessary for the accommodation of her disability.

Other accommodation requests by the complainant were not made to the respondent in a timely fashion, or were unsupported by medical authority. Finally, the evidence did not support the allegation that performance concerns were only raised by the respondent after it learned of her wrist injury.

Results for Canadians

The *Roopnarine* decision highlights some important aspects of the law surrounding disability accommodation. First, it reminds Canadians that the *Act* does not displace all aspects of the employment contract. In particular, employers are not precluded from terminating employees with a disability for non-discriminatory reasons, such as substandard performance unrelated to the disability.

Second, the decision highlights the important role played in the accommodation process by the timely exchange of accurate, relevant information, and prompt follow-up action once the necessary information has been received.

In addition to the contribution it makes to the substantive law, the *Roopnarine* decision exemplifies the Chairperson's new approach to case management and decision-writing whereby the primary objective is access to justice for the parties. The access to justice agenda manifested itself in the proactive and intensive case management of this proceeding, which yielded the following results:

- Through active pre-hearing case management and exploration of the issues with counsel at the opening of the hearing, a number of facts were agreed to by both counsels.
- The agreement of facts focused the hearing for the Tribunal and resulted in a reduced number of issues.
- The agreement of facts expedited the hearing which presumably resulted in a direct cost benefit to the parties in reduced legal fees.
- Agreement was arrived at between the parties that the medical evidence of both a general practitioner physician and a neurologist would be entered without the need to subpoena these doctors, who were reluctant to attend the hearing. This

saved both parties monies that would likely have been expended to cover the costs to have these individuals testify.
- Agreement was arrived at between the parties, that an affidavit sworn by the complainant's family physician could be tendered for the truth of its contents, and that the respondent would waive its right to cross-examine the physician.
- The parties were able to agree that only two witnesses would need to testify at the hearing: the complainant and her former supervisor.

Moreover, in addition to the case management in the proceeding, the decision itself promoted access to justice for Canadians:

- Having a length of only 24 pages, the decision is much shorter than many past decisions rendered by the Tribunal, thus making it more convenient to read in its entirety without reliance on summaries prepared by third parties.
- The decision features a detailed Table of Contents with headings that clearly reveal the decision's components, the "architecture" of the decision maker's reasoning, and the flow of ideas from one subject to the next.
- The decision is easy to read, written in plain language which avoids unnecessary jargon, legalese and other obscure terminology.
- The decision was drafted and released quickly. The hearing concluded on January 29, 2010, and the decision was released on March 19, 2010, fewer than 2 months later.

Breast v. Whitefish Lake First Nation, 2010 CHRT 10

In this case, the complainant alleged that the respondent First Nation government had discriminated against him by refusing to continue to employ him based on his disability and family status.

The complainant, who had suffered from diabetes for 13 years, had been employed with the respondent as a school bus driver and water truck driver until one day he experienced sudden, albeit temporary, vision loss in his right eye. He sought and obtained medical leave from the respondent, without an anticipated return date. The complainant alleged that when he subsequently tried to return to work, the respondent refused to give him back his former duties, and in fact constructively dismissed him by offering him employment as the sewage truck driver. The complainant perceived the sewage driver position as a demotion; in his view, it was of lower status and unpleasant. The complainant also viewed as discriminatory the respondent's decision to give his old water truck driver position to the brother of the respondent's Chief at that time.

The Tribunal noted that it was incumbent on the complainant to first establish a *prima facie* case of discrimination and that the allegations made by the complainant had to be credible in order to support a conclusion that a *prima facie* case exists. The Tribunal also noted that when dealing with an allegedly discriminatory course of conduct—as opposed to a pre-existing policy— one must start by examining whether the transaction between the parties, taken as a whole, results in adverse treatment on a prohibited ground.

Once a *prima facie* case has been established, the respondent must provide a reasonable explanation demonstrating that the alleged facts did not occur, or that the conduct was not discriminatory. In regard to the allegation of family status discrimination, the Tribunal concluded that no *prima facie* case had been made out, since no evidence had been led suggesting that the fraternal relationship between the replacement driver and the then Chief of the respondent was a factor in the respondent's decision to give the water truck job to the former. Further, the evidence demonstrated that the complainant himself was related to many people in this First Nations community, including Council members. The Tribunal noted that a complainant cannot simply put forward abstract beliefs or suspicions that he or she is a victim of discrimination without presenting some concrete observations or independent information to support or confirm that belief.

However, with regard to the allegation of discrimination based on disability, the Tribunal concluded that the complainant had made out a *prima facie* case: the complainant suffered from a disability, being diabetes, and his return to work was predicated upon medical documentation surrounding the accommodation of this disability. In particular, his diagnosis of diabetes-related third nerve palsy was a factor in the respondent's decision as to whether and when to return him to work. Thus, the respondent had a duty to accommodate the complainant, but accommodation is not necessarily a one-way street; where an employer makes a reasonable proposal, the employee has a duty to facilitate implementation of that proposal. If the

accommodation process fails because the employee does not co-operate, his or her complaint may be dismissed.

In the present case, the Tribunal found that the respondent had made a reasonable proposal for accommodating the complainant's disability. In all the circumstances of the case, the complainant's refusal to accept the available sewage truck job, at the same pay and with the same benefits as his water truck job, was unreasonable. The complainant did not fulfill his duty to facilitate the accommodation process. Consequently, the Tribunal dismissed his complaint.

Results for Canadians

This decision serves as a valuable reminder for employees and employers that accommodation is in many cases is a 2-way street. Employees who are confronted with *prima facie* discrimination are entitled to expect the employer to make efforts to accommodate them, but they have their own legal duty to facilitate the accommodation efforts of their employer.

The decision also provides valuable results for Canadians from the perspective of access to justice:

- Through active pre-hearing case management and exploration of the issues with counsel at the opening of the hearing, a number of facts were agreed to by both counsels. As well, the issues were narrowed to a few discrete ones.
- The case had been anticipated to take 2 or more weeks of hearing time, but pre-hearing case management conferences resulted in the shortening of the hearing to 1 week. Even then, obtaining agreement on many of the facts and narrowing the outstanding issues at the inquiry further expedited the hearing so that it took 2 days, instead of the scheduled 5 days. This is in part because, through the narrowing of the issues to only those in dispute, the parties agreed to curtail both the testimony of the witnesses and the argument.
- In addition, the medical evidence of the complainant's family physician and specialist, and that of the respondent's expert, was entered without the need to subpoena the physicians: the agreement to this effect resulted in savings, to both parties, of monies that would likely have been expended to cover the costs to have the physicians testify. The medical evidence was tendered for the truth of its contents, and the parties waived their respective rights to cross-examine on the same.
- Finally, since the complaint involved a legal dispute between the complainant and his own First Nations community, the Tribunal Chairperson encouraged the parties from the start of the hearing until its conclusion to reach a settlement, outside of the hearing process.

Johnstone v. Canada Border Services Agency, 2010 CHRT 20

The complainant alleged that the respondent, Canada Border Services Agency, had engaged in a discriminatory practice on the ground of family status in a matter related to employment. The discriminatory practices complained of included failure to accommodate, and adverse differential treatment based on family status. In this case, the ground of family status was invoked in connection with the complainant's raising of two young children. The complainant alleged that the respondent's policies forced her to work part-time upon her return to work after having each of her two children, resulting in her being given fewer hours of work than she was willing and able to work, and with an attendant loss of full-time employment benefits.

The complainant was a Border Services Officer employed by the respondent, who had been working full-time, rotating shifts. While in the respondent's employ, she had two children. Prior to returning from each of her maternity leaves, she asked the respondent for full-time static shifts; the rotating shifts made it very difficult to arrange childcare. Both times, she was faced with an unwritten policy of the respondent that it would provide static shifts to accommodate child-rearing responsibilities, but it would not provide full-time hours.

The Tribunal concluded that the discrimination on the ground of family status included situations like the complainant's, where a work requirement came into conflict with her childcare responsibilities. The Tribunal rejected the argument that in order to invoke the ground of family status, the complainant had to demonstrate serious interference with a substantial parental duty or obligation. In view of the foregoing, the Tribunal found that a *prima facie* case of discrimination had been made out: the complainant's evidence suggested that the respondent had engaged in a discriminatory practice by establishing and pursuing a policy that affected the complainant's employment opportunities including, but not limited to promotion, training, transfer, and benefits on the prohibited ground of family status.

Moreover, the respondent's practice in regard to scheduling had the effect of differentiating adversely against the complainant on the ground of family status.

The Tribunal then turned to the question of whether the respondent had accommodated the complainant's family status to the point of undue hardship. The Tribunal found that the respondent had not assessed whether it could accommodate the complainant's family responsibilities. In addition, in the Tribunal's view, the respondent could have dealt individually with family status accommodation cases as they arose, within already existing mechanisms. The respondent's management witnesses admitted that these mechanisms instead were reserved for those seeking medical and religious accommodations only, with random exceptions.

The Tribunal therefore concluded that the respondent had not fulfilled its duty to accommodate to the point of undue hardship, and as a result, the complaint was substantiated. The Tribunal ordered the respondent to establish written policies satisfactory to the complainant and the Canadian Human Rights Commission, in order to address family status accommodation requests, and that these policies include a process for individualized assessments of those making such requests. The respondent has filed an application in the Federal Court for judicial review of the Tribunal's decision.

Results for Canadians

The relevance and importance of the issues dealt with by the Tribunal in this decision are underscored by the fact that four subsequent Tribunal decisions in 2010 dealt with allegations of family status discrimination *based on childcare responsibilities*. While the debate as to the proper interpretation of "family status" as a prohibited ground of discrimination will continue in the Federal Court, the Tribunal, in the *Jo-stone* decision, has made a tangible contribution to the jurisprudential and policy discussion that will be taken up in the judicial arena. Moreover, the Jo–stone decision provided the Tribunal with an opportunity to explore a linkage with a previous analysis that it had conducted in a different case, 17 years earlier, in respect of the same issue.

Rulings on Motions and Objections
In addition to decisions, the full text of all formal rulings on motions and objections rendered in 2010 can be found on the Tribunal's website.

http://chrt-tcdp.gc.ca/NS/decisions/index-eng.asp

CORPORATE ACTIVITIES

Appointments and Staffing – The Chairperson's position was filled in November 2009 and for a 6 month period she was the only full-time Member. By August 2010, two full-time positions had been filled with new Governor in Council appointees. The Executive Director retired from the organization in April 2010. Both staffing processes to fill the Executive Director position on a permanent basis proved to be unsuccessful. During the transition period, operational continuity was provided by the Chairperson in her role as Chief Executive Officer, and an action plan to recruit a new Executive Director was put in place. In August 2010, the Chairperson engaged an Executive Director and a Senior Human Resources Consultant to assist in providing the needed organizational stability and expertise while the organizational structure was reviewed and new administrative processes were implemented.

Workload - The Chairperson carried the work of 3 to 4 full time adjudicators during the first half of 2010. She was joined by a full-time Member in June 2010 and a full-time Vice-Chairperson in August 2010.

Member Training - Members are provided with opportunities for common training experiences where they can exchange information and expertise on administrative and human rights law. In October 2010, the Chairperson led a training session for the full-time and part-time Members. Together with Senior Legal Counsel and the Director of Registry Operations, they met in Ottawa to review and discuss the vision and new initiatives pertaining to the hearing and mediation process. This meeting not only provided the opportunity for Members, who are geographically distanced from one another, to meet and exchange experiences and information; it also set a template for future meetings.

Stakeholder Consultation – In refining her vision of access to justice, the Chairperson began by consulting the bar and bench broadly across the country, in different sectors of the legal system, in order to draw on best practices outside of the human rights law field. Then in December 2010, she initiated a more formal national consultation agenda regarding her new vision. She began correspondence with the Ottawa stakeholders. As part of this consultation process, the Chairperson amended the Tribunal's case management practice note proposing the following:

- replacement of first conference call with a letter to the parties;
- evaluative mediation both pre and post-disclosure;
- enhanced disclosure of anticipated expert testimony;
- signed witness statements and/or affidavits to replace generalized "will-says";
- process mediation; and,
- rigorous disclosure by all parties of remedies sought or proposed.

Further consultations with stakeholders using a round table approach were planned for the first quarter of 2011.

Stakeholder Outreach: Access to Justice - Throughout 2010, the Chairperson of the Tribunal met with lawyers, judges and stakeholders across Canada, to seek views on how the Tribunal could better serve Canadians. In particular, the Chairperson:

- met with judges familiar with ADR, including the Associate Chief Justice of Alberta who recommended evaluative mediation / JDR for administrative tribunals;
- met with the Deans of Law or Vice Deans of Law, as well as professors of several Canadian universities, including the University of British Columbia, University of Alberta, University of Calgary, University of Ottawa, University of Toronto and Osgoode Hall;
- met with the Dean of Law, University of Oxford, Dean of Law, Queen Mary University, London, UK, Lord Justice of Appeal, Senior President of Tribunals, regarding the practices and procedures at the CHRT, international models of adjudication and administrative law issues;
- met with and encouraged dialogue between provincial human rights tribunals, including the Human Rights Tribunal of Ontario, the B.C. Human Rights Tribunal, and Quebec's Human Rights Tribunal;
- met with the Law Society of Upper Canada, Executive Director and staff;
- met with the Executive Director of the Alberta Civil Liberties Association;
- met with senior lawyers across Canada; and
- met with the Canadian Bar Association Human Rights Subsection Co-Chairs, B.C., and the B.C. Deputy Minister of Justice regarding the Chairperson's efforts federally, and how those could benefit B.C.

In addition to these meetings and dialogues, the Chairperson (i) liaised with the Human Rights Commission of Alberta (the AHRC is now using a model similar to the Chairperson's vision for resolving human rights complaints); (ii) began outreach with universities to see how student legal services may provide a venue for representation of unrepresented complainants; and, (iii) presented at the Administrative Law Section, Canadian Bar Association, Alberta, regarding her work at the CHRT.

Meetings with Other Government Agencies - Meetings and discussions also took place with representatives of Departments and Agencies of various levels of government including the Canadian Human Rights Commission, federal Department of Justice, Yukon Territory Department of Justice, Treasury Board, Privy Council Office, Public Service Commission, Procurement Ombudsman, and the Comptroller General of Canada. The Chairperson also attended conferences important to human rights and the work of the Tribunal including (i) the 5th International Conference of the Council of Canadian Administrative Tribunals; (ii) the 7th Annual Human Rights Conference held by the Quebec Human Rights Tribunal and Barreau du Quebec; and (iii) the 13th Colloquium on the Legal Profession sponsored by the Law Society of Upper Canada.

Oath of Office - The Chairperson and full-time Member, Administrative Judge Sophie Marchildon, took an oath of office in June 2010 in a formal ceremony in the Tribunal hearing room. Mr. Justice Ian Binnie, of the Supreme Court of Canada, administered the oath of office to the Chairperson. Mr. Justice Jo— Evans, of the Federal Court of Appeal, administered the oath of office to the full-time Member.

MEMBERS OF THE TRIBUNAL
- Biographies

Full Time Members

SHIRISH P. CHOTALIA, Q.C.

Chairperson, Canadian Human Rights Tribunal

Shirish P. Chotalia, Q.C. was appointed Chairperson of the Canadian Human Rights Tribunal effective November 2, 2009. Ms. Chotalia obtained her Bachelor of Arts in 1983, her Bachelor of Laws in 1986 and her Master of Laws in 1991 from the University of Alberta. She was admitted to the Bar of Alberta in 1987.

Ms. Chotalia practiced with the law firm of Pundit & Chotalia LLP in the areas of immigration, human rights and employment litigation. She successfully litigated many high profile cases. Some of Ms. Chotalia's cases include successfully arguing, before the Federal Court and the Federal Court of Appeal, in favour of religious accommodation for a turbaned Sikh Canadian RCMP officer (*R v Grant*). Her submissions were specifically acknowledged by Madam Justice Reed in the judgment as turning the *plaintiff's arguments of unconstitutionality and discrimination on their head.* She also recently successfully argued in 2009 before the Alberta Court of Appeal that a woman seeking to become a surface rights administrator was discriminated against on the basis of gender and was retaliated against (*Walsh v Mobile Oil*).

Ms. Chotalia has dedicated years of legal service to Aboriginal women and Filipino women struggling for fair treatment, often providing service on a pro bono basis or with minimal compensation. For example, she took up the cause of a Filipino woman who had contracted breast cancer in Canada to successfully prevent her removal on the alleged basis of medical inadmissibility. In another case, she assisted an Aboriginal woman alleging sexual harassment.

She was a Commissioner with the Alberta Human Rights Commission from 1989 to 1993, an adjudicator with the Canadian Human Rights Tribunal from 1999 to 2005 and served as an elected Bencher, Law Society of Alberta, from 2008 until her appointment to the Tribunal.

Ms. Chotalia was an instructor at the University of Alberta's Law Faculty since 1995, intermittently, teaching courses in Human Rights Law as well as Terrorism and the Law, and was also appointed as a Special Advocate in 2008 to address terrorism cases. She has written several books and many articles about human rights law and immigration law. For example, she wrote *The Annotated Canadian Human Rights Act 1994*, Carswell Thompson Professional Publishing Scarborough Ontario (updated and annotated text for the years 1996, 1997, 1998, 1999 & to 2000) and *Human Rights Law in Canada*, 1996 Carswell Thompson Professional Publishing, Scarborough Ontario (updated to 2000).

Other professional service included Chair of the Canadian Bar Association Immigration Section, Northern Alberta, and Member, Selection Advisory Board of Canada. Ms. Chotalia speaks several languages including French, Hindi, Marathi and Gujarati.

Ms. Chotalia has received numerous service and professional recognition awards including Professional Female of the Year, Indo-Canada Chamber of Commerce, "Woman of the Year" and the Red Cross Community Service Recognition Award.

SUSHEEL GUPTA

Vice-Chairperson, Canadian Human Rights Tribunal

Mr. Gupta obtained his Bachelors of Arts at the University of Waterloo in 1993, his LL.B. from the University of Ottawa in 1998 and was called to the Ontario Bar in February 2000. He has served most of his career in the public service with the now named Public Prosecution Service of Canada as a prosecutor and computer crime advisor, special advisor at the Canadian Air Transport Security Authority and as counsel in the Crimes Against Humanity and War Crimes section of the Department of Justice. Mr. Gupta is currently an employee of the Public Prosecution Service of Canada on leave without pay for a three year term.

As a community member and public servant, Mr. Gupta has been the recipient of the Government of Canada Youth Award for Excellence, the Deputy Minister of Justice Humanitarian Award and most recently the Ontario Justice Education Network Chief Justice Lennox Award. Mr. Gupta commenced his responsibilities on August 3rd, 2010.

SOPHIE MARCHILDON

Full-Time Member, Canadian Human Rights Tribunal

Ms. Sophie Marchildon was appointed in 2010 to a three-year term as a full-time member of the Canadian Human Rights Tribunal. She completed her Bachelor of Laws at the Université du Québec à Montréal. She is currently completing her master's degree in international law and politics at the Université du Québec à Montréal and was the recipient of the 2006 Award of Excellence for Best Student in the International Human Rights Law Clinic. She is a member of the Quebec Bar.

Throughout her career, Ms. Marchildon has practiced immigration law, human rights law, and health law within various organizations. She also worked as a lawyer and Co-Director at the Council for the Protection of the Sick, (Conseil pour la protection des malades), from 2005-2006, and was an assessor and former member of the Quebec Human Rights Tribunal. She has volunteered on a number of clinical ethics committees from 2005-2010, and worked as an ombudsman in the health care services from 2006 until her appointment to the Canadian Human Rights Tribunal in May 2010.

With a license in mediation from the Quebec Bar, Ms. Marchildon has handled over 200 mediations in the realm of human rights and the health care system. She was part of the Quebec Ministry of Health and Social Services' Team of Visitors which evaluated the quality of services in nursing homes across the province of Quebec. With respect to the elderly and her professional experience, Ms. Marchildon taught the course, "Violence envers les personnes âgées Vio 2008," at the University of Montreal in 2009.

Part-time Members

MATTHEW D. GARFIELD (Ontario)

Matthew D. Garfield was appointed as a part-time Member of the Tribunal in 2006. He is a Lawyer, Chartered Mediator and Chartered Arbitrator. His practice focuses on mediations, arbitrations, workplace investigations and the monitoring of implementation of Court/Tribunal Orders.

From 2000-04, Mr. Garfield was the Chair of the Human Rights Tribunal of Ontario. He joined the tribunal as Vice-Chair in 1998. He both adjudicated and mediated cases under the Ontario *Human Rights Code* involving claims of discrimination, harassment and reprisal. Prior to his appointment to the tribunal, Mr. Garfield practised law in Toronto.

He graduated from Dalhousie Law School in 1988 and was a recipient of the class prize in constitutional law. He was called to the Nova Scotia Bar in 1989 and the Ontario Bar in 1992. He was also the Co-Chair of the 2001 Conference of Ontario Boards and Agencies.

KERRY-LYNNE D. FINDLAY, Q.C. (British Columbia)

Kerry-Lynne Findlay was appointed as a part-time Member of the Tribunal in 2006 for a five-year term. Ms. Findlay graduated from the University of British Columbia with a B.A. in history in 1975 and an LL.B in 1978. She was called to the British Columbia Bar in 1979 and was appointed Queen's Counsel in 1999. Ms. Findlay is a partner of the Vancouver, B.C., law firm of Watson Goepel Maledy with a civil and commercial litigation practice that has encompassed a variety of legal areas including family law and mediation, estate matters, employment law and aboriginal land issues.

Active in the Canadian Bar Association, Ms. Findlay served on the National Task Force on Court Reform in Canada, as National Chair of the Constitutional Law Section and as Chair of the National Women Lawyers Forum. In addition to her national profile, Ms. Findlay has served on several boards, including Science World, Chair of the Vancouver City Planning Commission and Honorary Counsel for the Chinese Benevolent Association of Canada, a century old association that provides umbrella service and support for

the Chinese Canadian community. Ms. Findlay was named the 2001 YWCA Woman of Distinction in the category of Management, the Professions and Trades.

WALLACE G. CRAIG
(British Columbia)

Wallace Gilby Craig was appointed in 2007 to a three-year term as a part-time Member of the Canadian Human Rights Tribunal. Former judge Wallace Craig worked in the justice system for forty-six years. After 20 years of experience in a general practice he was promoted to the Bench in 1975. Judge Craig resided over the Vancouver Criminal Division - Provincial Court of British Columbia from 1975-2001. A retired accomplished independent lawyer in his hometown of Vancouver, B.C, Judge Craig is the author of *Short Pants to Striped Trousers: The Life and Times of a Judge in Skid Road Vancouver*. He earned his LLB from the Faculty of Law at the University of British Columbia.

MARC R. GUIGNARD
(New Brunswick)

Marc Guignard was appointed in December 2007 to a three-year term as a part-time member of the Canadian Human Rights Tribunal. Mr. Guignard received his Bachelor of Science (specializing in Political Science) at the Université of Moncton, New Brunswick, in 1989 and earned his law degree at the Université of Moncton in 1992. He was called to the Bar of New Brunswick in 1993. Mr. Guignard has been a partner in the law firm Godin Lizotte, from 1993 to present.

RÉJEAN BÉLANGER
(Quebec)

Réjean Bélanger was appointed in 2008 to a three-year term as a part-time member of the Canadian Human Rights Tribunal. Mr. Bélanger is a lawyer and certified mediator. He holds a Bachelor of Education from the University of Montreal as well as a Bachelor of Arts, a Bachelor of Commerce, a Masters of Education and a Bachelor of Law from the University of Ottawa. Mr. Bélanger was admitted to the Quebec Bar in 1980 and has conducted a private practice in Gatineau (Québec), principally in the areas of labour and administrative law. He received his accreditation as a mediator in the areas of civil, commercial and family matters in 1997. He has argued before several administrative tribunals, the Superior Court of Quebec, the Court of Appeal and the Supreme Court of Canada. Before becoming a lawyer, Mr. Bélanger served as Deputy Secretary of the Franco-Ontario Teachers Association and as Director of the Regional Office of the Teachers Association of West Québec. He is also an active member of the board of directors of three non-profit organizations that have, or are currently bringing aid to African countries, the Antilles (Haiti) and South America (Honduras).

EDWARD LUSTIG
(Ontario)

Edward Lustig was appointed in 2008 to a three-year term as a part-time Member of the Canadian Human Rights Tribunal. Mr. Lustig received his Bachelor of Arts Degree from the University of Toronto, his Bachelor of Laws Degree from Queen's University, and was called to the Bar of Ontario with First Class Honours in 1975. He has been a member of the Law Society of Upper Canada and the Canadian Bar Association since 1975. Mr. Lustig joined the legal department of the City of Niagara Falls in 1975 and, after 27 years of dedicated service, he retired in 2002. In January 2006 he joined Broderick & Partners as counsel and carries on a general law practice with particular emphasis on municipal law, planning and development matters, commercial and real estate law and related litigation. Mr. Lustig also has experience in labour matters, including employment and pay equity.

FOR FURTHER INFORMATION

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